

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TYSON R. PORTER,

Petitioner,

v.

No. 24-cv-445 JMC/LF

UNITED STATES OF AMERICA,

Respondent.

ORDER OF DISMISSAL

This matter is before the Court following Petitioner Tyson Porter's failure to cure deficiencies as directed. Petitioner was incarcerated when the case was filed and is proceeding *pro se*. He initiated this case on May 8, 2024 by filing a 28 U.S.C. § 2255 form (Doc. 1). Petitioner appears to challenge his pretrial custody in the Eddy County Detention Center. On May 9, 2024, the Clerk's Office mailed Petitioner a blank § 2241 form and a blank motion to proceed *in forma pauperis*. On May 23, 2024, Petitioner filed an Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 2) ("IFP Application"). Petitioner did not submit a six-month inmate account statement and did not return the § 2241 form.

By an Order to Cure Deficiencies ("Order") entered November 20, 2024, the Court directed Petitioner to either submit an inmate account statement or pay the \$5.00 habeas filing fee. (Doc. 3). The Court further noted that Petitioner is not a federal inmate and does not appear to challenge a federal conviction, so the Court instructed Petitioner to clarify his claims by filing an appropriate habeas petition, which the Clerk's Office mailed to Petitioner. (Doc. 3) at 2-4. The Order warns that the failure to timely cure deficiencies will result in dismissal of this case without further notice.

The deadline to submit an account statement and file a petition on the proper form was December 20, 2024. Petitioner did not comply, show cause for such failure, or otherwise respond to the Order, which was returned as undeliverable. *See* Docs. 4, 5. Petitioner has also not provided an updated address as required by D.N.M. Local Civil Rule 83.6. For these reasons, the Court will dismiss the Habeas Corpus Petition without prejudice pursuant to Fed. R. Civ. P. 41(b) for “failure to prosecute or comply with the rules of civil procedure or court’s orders.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003). The Court will also deny Petitioner’s pending Application to Proceed in District Court Without Prepaying Fees or Costs, (Doc. 2), which is now moot.

IT IS ORDERED that Petitioner Tyson Porter’s Habeas Corpus Petition (**Doc. 1**) is **DISMISSED without prejudice**; his Application to Proceed in District Court Without Prepaying Fees or Costs (**Doc. 2**) is **DENIED as moot**; and the Court will enter a separate judgment closing this civil case.

/s/ Joel M. Carson III
JOEL M. CARSON III
UNITED STATES CIRCUIT JUDGE
Sitting by Designation